

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-160187
	:	TRIAL NO. B-1505195
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
GERALD SMITH,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Gerald Smith was indicted for one count of domestic violence, a third degree felony. He pleaded guilty to a reduced offense of domestic violence, a fourth degree felony. The trial court sentenced Smith to 12 months' incarceration and credited him for 107 days served. Smith requested that the trial court appoint appellate counsel for purposes of appeal.

Smith's appointed counsel has advised this court that, after a thorough review of the record, he can find nothing that would arguably support appellant's appeal, and that the appeal is wholly frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *see also Freels v. Hills*, 843 F.2d 958 (6th Cir.1988). Counsel, as required by *Anders*, has communicated this conclusion to Smith, and has offered him an opportunity to respond and to raise any issues. Counsel indicated that

he had not received a response from Smith, but indicated that Smith, prior to being transported to prison, was unhappy with the length of his sentence. Counsel has also moved this court for permission to withdraw as counsel. *See Anders* at 744; *see also* 1st Dist. Loc.R. 16.2(C)(1) and 16.2(D)(2).

Counsel now requests that this court independently examine the record to determine whether the appeal is wholly frivolous. *See Anders* at 744. We have done so, and we agree with counsel's conclusion that the proceedings below were free of error prejudicial to appellant and that no grounds exist to support a meritorious appeal. Therefore, we overrule counsel's motion to withdraw from his representation of appellant, and affirm the judgment of the trial court.

We hold that this appeal is frivolous under App.R. 23 and without "reasonable cause" under R.C. 2505.35. But we refrain from taxing costs and expenses against appellant because he is indigent.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

CUNNINGHAM, P.J., DEWINE and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on September 2, 2016
per order of the court _____.
Presiding Judge